

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RONNIE J. GARNER,

Plaintiff,

v.

CIV. NO. 04-1314 RHS/ACT

**STEPHANIE GONZALES, Director,
Child Support Enforcement Division,
New Mexico, et al.,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendants' Motion for Stay of Proceedings/Discovery filed December 13, 2004. Docket No. 7. Defendants, Stephanie Gonzales and Pamela S. Hyde, are seeking a stay of proceedings pending a ruling on their Motion to Dismiss. In their Motion to Dismiss, Defendants assert that they are immune from suit under the Eleventh Amendment. In response, Plaintiff addresses the merits of the Motion to Dismiss. Docket No. 19. The merits of the Motion to Dismiss will be addressed by the presiding Judge in this matter.

When a defendant raises an issue of immunity, that defendant is entitled to have that issue resolved before being required to engage in discovery and other pretrial proceedings. *Siegert v. Gilley*, 500 U.S. 226 (1991). "One of the purposes of immunity...is to spare a defendant not only unwarranted liability, but unwarranted demands customarily imposed upon those defending a long drawn out lawsuit." *Id.* at 232; *Puerto Rico Aqueduct and Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 ("The very object and purpose of the 11th Amendment [are] to prevent the indignity of subjecting a state to the coercive process of judicial tribunals at the instance of private parties.").

The Court notes that while Defendants James Loughren, Ira Robinson, Michael D. Bustamante and Michael E. Vigil have also filed a motion to dismiss, based in part on Eleventh Amendment immunity, these Defendants have not requested a stay. However, in the interest of judicial economy, the Court will stay all proceedings as against these Defendants as well.

IT IS THEREFORE ORDERED that Defendants' Motion for Stay of Proceedings/Discovery [Docket No. 7] is granted and all proceedings in this matter are stayed pending a ruling on Defendants Loughren, Robinson, Bustamante, and Vigil's Motion to Dismiss Complaint [Docket No. 2] and Defendants Gonzales and Hyde's Motion to Dismiss Plaintiff's Complaint [Docket No. 5].


ALAN C. TORGERSON
UNITED STATES MAGISTRATE JUDGE